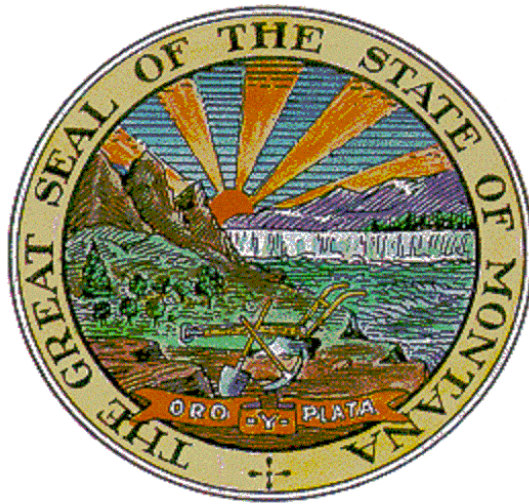


State of Montana
Department of Labor and Industry
Business Standards Division

PROGRAM STATUTES RELATING TO ELEVATOR LICENSING



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**TITLE 37
CHAPTER 73
PART 1 & 2**

**ELEVATOR CONTRACTORS,
MECHANICS, AND INSPECTORS**

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Chapter Compiler's Comments

Effective Date: Section 26(1), Ch. 303, L. 2005, provided that this chapter is effective October 1, 2005.

Part 1

General Provisions

37-73-101. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(2) "Elevator contractor" means any person intending to engage in the business of installing, altering, or repairing elevators, escalators, dumbwaiters, or other equipment subject to the provisions of Title 50, chapter 60, part 7.

(3) "Elevator inspector" means any person intending to engage in inspecting elevators, escalators, dumbwaiters, or other equipment subject to the provisions of Title 50, chapter 60, part 7.

(4) "Elevator mechanic" means any person intending to engage in installing, altering, repairing, or testing elevators, escalators, dumbwaiters, or other equipment subject to the provisions of Title 50, chapter 60, part 7.

History: En. Sec. 1, Ch. 303, L. 2005.

37-73-102. Rulemaking. The department may adopt rules for the administration of this chapter and for the licensing and disciplining of elevator mechanics, elevator contractors, and elevator inspectors. The department shall adopt rules to provide for a limited mechanic's license and a limited elevator contractor's license.

History: En. Sec. 2, Ch. 303, L. 2005.

Part 2

Licensing

37-73-201. License required. (1) A person may not engage in the work of an elevator mechanic or elevator inspector or engage in the business of an elevator contractor unless the person has received a license from the department.

(2) A person who receives a license under the provisions of this chapter shall carry the license or proof of licensure at all times while working on a job site and performing work that requires a license. Acceptable proof of licensure must be determined by the department and be made known to each licensee when a license is issued.

(3) The department shall establish license fees and license renewal fees that are commensurate with the costs of administering the licensing provisions of this chapter.

History: En. Sec. 3, Ch. 303, L. 2005.

37-73-202. Apprenticeship allowed. This chapter does not prohibit a person from working as an apprentice with an elevator mechanic licensed under this chapter and under rules adopted by the department. The name and residence of each apprentice and the name and residence of the apprentice's employer must be filed with the department, and a record must be kept by the department showing the name and residence of each apprentice.

History: En. Sec. 4, Ch. 303, L. 2005.

37-73-203. Elevator mechanic's license -- limited mechanic's license. (1) A person intending to work as an elevator mechanic shall file a license application with the department on forms furnished by the department.

(2) Except as provided in subsection (3), an applicant shall furnish proof, under oath, that the person:

(a) has successfully completed a state-approved apprenticeship or other education program that meets requirements established by the department by rule; or

(b) has at least 3 years of experience, verified by current and previous employers, working with equipment subject to the provisions of Title 50, chapter 60, part 7, and has passed the examination provided for in 37-73-204.

(3) The department shall adopt rules for the licensure, without examination, of an applicant who can demonstrate that the applicant has worked continuously as an elevator mechanic for the 3 years prior to October 1, 2005, and has the requisite experience for licensure. An applicant under this section shall pay the required application fee and shall submit any required proof under oath.

(4) The department shall issue an elevator mechanic's license to an applicant that meets the requirements of this section.

(5) (a) The department may issue a limited mechanic's license to an applicant that authorizes a licensee to work only on platform lifts, stairway chairlifts, and dumbwaiters that are installed in private residences.

(b) The examination for a limited mechanic's license must be based on the applicable codes for the equipment that a licensee is authorized to install.

(c) The department shall issue a limited mechanic's license to an applicant that meets the requirements of this subsection (5).

History: En. Sec. 5, Ch. 303, L. 2005.

37-73-204. Elevator mechanic's examination -- fee -- reciprocity. (1) The department shall, at least once a year, administer an examination to applicants meeting the requirements of 37-73-203(2)(b). The department shall determine the subjects, scope, and acceptable level of performance for the examination.

(2) The department shall determine by rule the fees to be charged an applicant for each examination and reexamination that the department administers. The fees must be commensurate with costs.

(3) An applicant for a license who has previously taken and failed the examination required by this section may retake it at any time within 2 years without again furnishing proof of compliance with 37-73-203(2)(b).

(4) The department may issue a license to an individual holding a valid license from another state that the department determines has standards substantially equal to this chapter upon application and without examination.

History: En. Sec. 6, Ch. 303, L. 2005.

37-73-205 through 37-73-207 reserved.

37-73-208. Elevator inspector's license. (1) A person intending to engage in work as an elevator inspector shall apply for a license as an elevator inspector on forms provided by the department.

(2) The department may not grant an applicant an elevator inspector's license unless the applicant demonstrates that the applicant meets the current national standards for the qualifications of elevator inspectors. The department shall designate by rule the national standards that must be met by an applicant.

History: En. Sec. 7, Ch. 303, L. 2005.

37-73-209 through 37-73-211 reserved.

37-73-212. Elevator contractor's license -- limited elevator contractor's license. (1)

A person intending to engage in business as an elevator contractor shall apply for a license as an elevator contractor on forms provided by the department.

(2) An applicant shall provide the department with the following:

(a) if the applicant is an individual or sole proprietor, the name, residential address, and business address of the applicant;

(b) if the applicant is a domestic business entity, the name and business address of the business entity and the name and residential address of the business entity's principal officer;

(c) if the applicant is a foreign business entity, the name and address of a state resident authorized to accept service of process or other notices on the business entity's behalf;

(d) evidence of insurance coverage required in 50-60-716; and

(e) other information that the department may require.

(3) The department shall issue an elevator contractor's license to an applicant that meets the requirements of this section.

(4) The department may issue a limited elevator contractor's license to an applicant that limits a licensee to the business of installing, altering, and repairing elevators, platform lifts, stairway chairlifts, and dumbwaiters in private residences. The department shall issue a limited elevator contractor's license to an applicant that meets the requirements of this section.

History: En. Sec. 8, Ch. 303, L. 2005.

37-73-213 through 37-73-215 reserved.

37-73-216. Temporary elevator mechanic's license. (1) (a) If, in the case of an emergency or disaster as defined in 10-3-103, the department determines that the number of licensed elevator mechanics is insufficient to cope with the emergency or disaster, the department shall contact the licensed elevator contractors operating in the state and request that the elevator contractors certify to the department any persons in their employ who have an acceptable combination of education and experience to perform elevator work without direct supervision.

(b) As soon as practicable, the department shall issue to a person certified pursuant to subsection (1)(a) a temporary elevator mechanic's license. The department may not charge a fee for a license issued under this section.

(c) The license may not be valid for more than 30 days. However, the department may renew the license for 30-day periods in the case of a continuing emergency or disaster.

(d) The department may limit a person's temporary license to certain equipment or to certain geographical areas.

(2) (a) An elevator contractor shall inform the department if there are not any licensed elevator mechanics available to perform elevator work on behalf of the elevator contractor.

(b) The elevator contractor may submit a list to the department of any persons that the elevator contractor certifies have an acceptable combination of documented education and experience to perform the work of an elevator mechanic without direct supervision.

(c) The department shall issue a temporary elevator mechanic's license to any person, certified by an elevator contractor, who applies for a license to the department on a form supplied by the department. The department may charge a fee for a temporary license issued under this subsection that is commensurate with the department's costs in administering this subsection (2).

(d) A temporary license issued under this subsection (2) is valid for a period of 30 days, and the department shall renew the license for additional 30-day periods as long as the shortage of licensed elevator mechanics exists and the licensee is employed by the certifying elevator contractor. However, the department may refuse to renew a temporary license for any temporary licensee that the department determines has had an adequate opportunity to obtain a license under the provisions of 37-73-203 and 37-73-204.

History: En. Sec. 9, Ch. 303, L. 2005.

37-73-217 through 37-73-219 reserved.

37-73-220. License renewal -- continuing education. (1) (a) All licenses issued under this chapter expire on a date set by department rule.

(b) A licensee may renew a license by filing an application with the department on a form provided by the department and by paying a renewal fee in an amount established by the department by rule.

(2) The department shall establish by rule continuing education requirements for persons licensed as elevator mechanics or elevator inspectors. The department may not require less than 8 hours of continuing education for each license term. The continuing education requirement must be met by the licensee taking all of the required hours of continuing education in the year prior to the expiration of the license. The rules must include requirements for instructor certification, course content, and recordkeeping.

(3) The department shall issue a renewal license to applicants who meet the requirements of this section.

History: En. Sec. 10, Ch. 303, L. 2005.

37-73-221. Reasonable fees -- deposit of fees and fines. (1) All fees established by the department under this chapter must be commensurate with the respective program costs. Fees collected by the department under this chapter must be deposited in an account in the state special revenue fund for the use of the program.

(2) Fines collected under this chapter must be deposited in the state general fund.

History: En. Sec. 11, Ch. 303, L. 2005.

37-73-222 through 37-73-224 reserved.

37-73-225. Proof of license. (1) An employee of a private or public employment agency or labor union, a building code compliance inspector, an employee of the department, a person who is professionally responsible for a job site, or a licensed elevator mechanic or licensed elevator inspector has the right to ask a person doing work at a job site that requires an

elevator mechanic's license to provide proof of licensure. If the person performing the work is unable to furnish proof of licensure, the requesting person may report that fact to the department.

(2) An employee of the department may issue a citation to and collect a fine, as provided in 37-73-226, from a person at a job site where the person is performing elevator mechanic work if the person fails to display an elevator mechanic's license or proof of licensure at the request of the department inspector.

History: En. Sec. 12, Ch. 303, L. 2005.

37-73-226. Failure to display license. (1) A citation issued by an employee of the department for failure to display an elevator mechanic's license or proof of licensure must include:

- (a) the time and date on which the citation is issued;
- (b) the name, residential address, and signature of the person to whom the citation is issued;
- (c) reference to the statutory authority to issue the citation;
- (d) the name, title, affiliation, and signature of the person issuing the citation;
- (e) information explaining the procedure for the person to follow in order to pay the fine or to demonstrate proof of licensure; and
- (f) the amount of the applicable fine.

(2) The applicable civil fines for failing to display a license or proof of licensure are as follows:

- (a) \$100 for the first offense;
- (b) \$250 for the second offense; and
- (c) \$500 for the third and any subsequent offense.

(3) Each day of violation constitutes a separate offense. The person issuing the citation is responsible for determining, by means of an up-to-date list or through telephone or other communication with the department, whether the citation being issued is for a first, second, or subsequent offense.

(4) The person who issues the citation is authorized to collect the fine, but the person who is issued a citation may pay the fine to the appropriate authority identified on the citation within 5 business days of the date of issuance. The department may waive or refund the fine upon finding that the person has demonstrated acceptable proof of licensure.

(5) A person who refuses to sign and accept a citation is subject to the civil penalty provided for in 37-1-318.

History: En. Sec. 13, Ch. 303, L. 2005.

37-73-227. Penalty. (1) Except as provided in subsection (4), a person or corporation knowingly violating any provision of this chapter shall upon conviction of a violation:

- (a) if the violator is a person, be punished by a fine of not more than \$500, by imprisonment for a term not to exceed 6 months, by revocation of the license, or by any combination of the fine, imprisonment, and revocation, in the discretion of the court; and
- (b) if the violator is a corporation, be punished by a fine of not more than \$1,000.

(2) Any officer or agent of a corporation or member or agent of a partnership or association who personally and knowingly participates in or is an accessory to any violation of this chapter by the partnership, association, or corporation is subject to the penalties prescribed for individuals.

(3) A violation of this chapter is a continuing violation, and the statute of limitations is tolled until the violation ceases. The county attorney shall, upon request of the department, prosecute any violation of the licensing requirements of this chapter.

(4) A person who violates the provisions of 37-73-226 is not subject to an additional penalty under this section.

History: En. Sec. 14, Ch. 303, L. 2005.